

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the Commission's Own
Motion into Competition for Local Exchange Service.

R.95-04-043

Order Instituting Investigation on the Commission's
Own Motion into Competition for Local Exchange
Service.

I.95-04-044

**PETITION OF THE JOINT TELECOMMUNICATIONS CARRIERS FOR
MODIFICATION OF DECISION NO. 00-09-073**

Leon M. Bloomfield
WILSON & BLOOMFIELD LLP
1901 Harrison Street, Suite 1630
Oakland, CA 94612
Telephone: (510) 625-8250
Facsimile: (510) 625-8253
E-Mail: lmb@wblaw.net

James W. McTarnaghan
STEEFEL, LEVITT & WEISS
A Professional Corporation
One Embarcadero Center, 30th Floor
San Francisco, CA 94111
Telephone: (415) 788-0900
Facsimile: (415) 788-2019
E-mail: jmctarnaghan@steefel.com

Date: March 9, 2005

On behalf of the Joint Telecommunications
Carriers - Cingular Wireless, Nextel of
California, Inc., SBC California, Sprint,
T-Mobile, Verizon California, Inc., and
Verizon Wireless

**PETITION OF THE JOINT TELECOMMUNICATIONS CARRIERS FOR
MODIFICATION OF DECISION 00-09-073**

Pursuant to Commission Rule of Practice and Procedure 47, Cingular Wireless, Nextel of California, Inc., SBC California, Sprint, T-Mobile, Verizon Wireless¹ and Verizon California, Inc. (hereafter referred to collectively as the “Joint Telecommunications Carriers”) respectfully submit this Petition for Modification of Decision (D.) 00-09-073 (the “Decision”).

Specifically, the Joint Telecommunications Carriers propose that the Commission modify the Decision to establish a triggered overlay as the back-up area code relief plan for the 310 Numbering Plan Area (the “310 NPA,” more commonly referred to as the 310 area code). In brief, a triggered overlay is a form of area code relief in which an all-services overlay is implemented but only at the point where some predetermined number of unassigned NPA-NXX codes² remain in a given area code; in other words, the “trigger” is “pulled” only when exhaust can no longer be avoided.³ Prior to that point (i.e., the “triggering” event), carriers undertake the

¹ The following legal entities operate in California as Cingular Wireless: New Cingular Wireless PCS, LLC, Cagat Cellular Communications Corporation, Santa Barbara Cellular Systems, Ltd., and Visalia Cellular Telephone Company. Sprint is the dba for Sprint Telephony PCS, L.P., Sprint Spectrum LP, and Wireless Co., LP. T-Mobile is the dba for Omnipoint Communications, Inc. Verizon Wireless is the dba for the following California entities: Cellco Partnership, Los Angeles SMSA Limited Partnership, Oxnard/Venture/Simi Limited Partnership, Verizon Wireless (VAW) LLC, Fresno MSA Limited Partnership, Sacramento Valley Limited Partnership, Redding RSA Limited Partnership, GTE Mobilnet of California Limited Partnership, GTE Mobilnet of Santa Barbara Limited Partnership, Modoc RSA Limited Partnership, California RSA No. 4 Limited Partnership.

² By the term “unassigned NPA-NXX codes,” the Joint Telecommunications Carriers mean NXX codes that have not had any thousand-number blocks “given” to the Pooling Administrator for assignment to carriers requesting new thousand-number blocks of telephone numbers in the NPA.

³ Total (or final) exhaust occurs when (a) the Pooling Administrator (“PA”) does not have any thousand-number blocks available for assignment to a rate center in an NPA and (b) there are no NXX codes available for replenishing the PA’s supply of thousand-number blocks for assignment to that rate center. In the practical world, however, even if the PA did have a few thousand-number blocks still available in the pool for assignment to a particular rate center, exhaust would have been reached as soon as there were no NXX codes available for replenishing the PA’s supply of thousand-number blocks for that (or any other) rate center. This Petition proposes that the “triggering event” would occur when there are only six unopened (unassigned) NXX codes remaining for assignment to rate centers in the NPA. At that point, exhaust would be both imminent and unavoidable.

necessary network preparations for the overlay *but there is no impact on consumers*.⁴ Even at the point where the trigger is pulled, the impact on consumers is minimal since, among other things, no consumer is forced to change his or her existing telephone number (*i.e.*, no existing number is changed to a new area code, as would happen with a “geographic split”).⁵

In essence, a triggered overlay in the 310 NPA provides the Commission with the optimal means to ensure consumer choice of telecommunications services and providers, maintain the viability of a competitive market, minimize the impact of relief on consumers and obviate the concern over taking premature action or otherwise compromising the effectiveness of current number conservation measures.

I. OVERVIEW

The 310 NPA has been the focus of a longstanding policy debate in California about the best way to address concerns over both the high demand by California consumers for new telecommunications services (and thus new telephone numbers) and the burden on consumers and carriers resulting from the opening of new area codes. Although no one disagrees with the need to ensure that adequate numbering resources are available so that consumers will continue to have their choice of telecommunications services and service providers, there has been no consensus to-date, at least in the 310 NPA, on how – or when – to act.

⁴ As noted below, there are only nine (9) unassigned NPA-NXXs remaining in the 310 NPA. Thus, the Joint Telecommunications Carriers acknowledge that the “triggering” event could occur prior to, or shortly after, any action by this Commission. In that event, the relief sought in this Petition would provide for the immediate implementation of the overlay while ensuring adequate time for consumer notification and network preparation. (See Section C.3, *infra*.)

⁵ In a “geographic split,” the geographic area covered by an existing area code is divided into two parts, one of which retains the existing area code and the other of which is given a new area code.

In the debate over area code relief, all of the interested stakeholders have expressed legitimate concerns: carriers are concerned that even if the Commission ordered area code relief today, the remaining numbers will not last until area code relief can be implemented; some consumers are concerned that an area code split in the 310 NPA is premature and unnecessarily burdensome; some consumers object to being forced to change their existing area codes; and the Commission has been concerned that state and federal number conservation mechanisms, which have extended the life of the 310 NPA, not be cut short.

As discussed more thoroughly throughout this Petition, however, there is a solution to the numbering dilemma in the 310 NPA -- a triggered overlay. A triggered overlay allows the carriers and the Commission to prepare for the eventual exhaust of numbering resources in the area code *without any impact on consumers* until the need for new numbers is unavoidable.⁶ Thus, to the extent number conservation measures extend the life of the 310 NPA beyond current expectations, the *status quo* from the consumer's perspective will be maintained at least until the triggering event. The Joint Telecommunications Carriers note that all services overlays have, as a general matter, proven to be such an elegant solution to the need for area code relief that they have been implemented in over 30 metropolitan areas in the country including New York, Chicago, Atlanta, Denver, Portland and Miami. The added advantage of a triggered overlay, i.e., the delayed implementation of the relief, only increases the attractiveness of this form of area code relief.

⁶ Area code relief in any form cannot be done instantaneously as carriers need time to make the necessary modifications to their network and consumers need adequate time to adjust to the new area code. Thus, in considering the need to implement area code relief the Commission must focus on ensuring that consumers will have uninterrupted access to the service providers of their choice (when the numbering resources exhaust sometime in the near future) with minimal impact on those same consumers.

Although the triggered overlay seems particularly well suited to the situation in the 310 NPA, the prospects for timely area code relief in the area seem to be complicated by the adoption of the Decision almost five years ago. In the Decision, the Commission established a geographic split as the back-up plan for area code relief in the 310 NPA. The back-up plan has not yet been implemented, but the Decision has nonetheless apparently led to some reluctance to explore more viable area code relief options like the triggered overlay.⁷ Thus, in an effort to reconcile the concerns of all the stakeholders noted above, and to ensure that timely area code relief is available when needed, the Joint Telecommunications Carriers respectfully request that the Commission modify the Decision by adopting the triggered overlay described herein as the back-up plan for area code relief in the 310 NPA.

II. CIRCUMSTANCES HAVE CHANGED DRAMATICALLY SINCE THE ADOPTION OF THE DECISION

Although petitions for modification are generally filed within a year of the effective date of the decision they seek to modify,⁸ circumstances have changed dramatically since the adoption of the Decision. This fact, combined with the dearth of available numbers in the 310 NPA and the need for adequate time to implement a relief plan, warrants expedited consideration of this Petition. In particular, when the Commission adopted the Decision in September 2000, and determined that an area code split would be used to provide relief in the 310 NPA, the numbering world looked very different: the Federal Communications Commission (the “FCC”) had only recently issued its First Report and Order outlining national numbering resource

⁷ The Joint Telecommunications Carriers believe the Commission has ample authority to implement a triggered overlay without this Petition. See Delegated Authority Order; see also Pub. Util. Code § 1708.

⁸ See Commission Rule 47(d).

guidelines;⁹ carriers were in the midst of their first months managing their inventories pursuant to those guidelines; wireless carriers did not yet participate in pooling (and thus full NPA-NXX codes were being assigned to satisfy wireless consumer demand); local number portability was not yet available for wireless consumers; and *the concept of a triggered overlay had not yet been envisioned.*

Since that time, carriers and regulators alike have become accustomed to the FCC's numbering requirements and are better able to manage numbering inventories according to those guidelines. Wireless carriers have participated in pooling since November 2002, and wireless number portability became a reality in the fall of 2003. In addition, the Commission and the Joint Telecommunications Carriers have implemented and exhausted all feasible number conservation measures in the 310 NPA.¹⁰ *Moreover, in the past 5 years, numerous metropolitan areas have implemented area code relief and have chosen to use an overlay in order to minimize the impact on consumers in the affected areas.*¹¹ In fact, the network preparation for a triggered overlay in the 815 NPA (in Illinois) was completed just this February.¹²

⁹ See *In the Matter of Numbering Resource Optimization*, CC Dkt. No. 99-200, Report and Order and Further Notice of Proposed Rule Making, 15 FCC Rcd. 7574 (2000), at ¶ 171 (the "First NRO").

¹⁰ See discussion at Section D., *infra*.

¹¹ A list of the overlays in the United States is attached hereto as Exhibit A. In certain areas, states have actually overlaid three area codes over the same geographic area. See e.g., the 212/646/917 and 718/347/917 NPAs in New York City and the 678/770/404 NPAs in Atlanta, Georgia.

The Joint Telecommunications Carriers further note that since wireless carriers became pooling capable in November 2002, it is their understanding that the only area code split implemented in this country has been the 909/951; all other area code relief has been in the form of an overlay. Moreover, with the exception of California and Utah, all of the other approved – but not yet implemented – area code relief plans in the country are overlays (i.e., a total of 23 overlays in 14 states).

¹² See e.g., *Neustar, Inc., in its role as North American Number Plan Administrator, Petition for Approval of Numbering Plan Area Relief Planning for the 815 Area Code*, ICC Docket No. 00-0475, Report and Response to Order Requesting Approval of Industry Implementation Plan (June 15, 2004)(submission of industry consensus implementation plan for 815 overlay to Illinois Commerce Commission).

In brief, for the reasons discussed above, the filing and granting of this Petition at this time is fully justified by the change in circumstances since September 2000.

III. PETITION

A. Background – Area Code Relief in the 310 NPA has been Challenging

The history of area code relief in the 310 NPA underscores the difficulties faced by the Commission in trying to reconcile the various stakeholders' concerns on the topic of area code relief. In May 1998, the Commission approved an all-services overlay (not a triggered overlay) for the 310 NPA. At that time, the Commission determined that the all-services overlay would *“provide the best overall remedy for 310 NPA relief when compared against either the two-way or three-way geographic splits offered as alternatives.”*¹³ The Commission further determined that the all-services overlay met the prerequisites for competitive neutrality and would “best satisfy the remaining criteria for evaluation of relief plans . . . that focus on minimizing the adverse impacts on customers.”¹⁴

In September 1999, however, shortly before full implementation of the overlay, the Commission reversed its position and suspended the overlay out of its concern over 10-digit dialing, an issue that it had been aware of – and considered -- at the time it issued its earlier decision.¹⁵ Consideration of further conservation measures was also ordered at that time to extend the life of the 310 NPA.¹⁶

¹³ See D. 98-05-021, 1998 Cal. PUC LEXIS 531 (May 7, 1998) *Id. at* *48 (emphasis added)

¹⁴ *Id.* (emphasis added).

¹⁵ See D.99-09-067 at p. 8.

¹⁶ At that time, conservation measures were in their infancy. For example, thousand blocks number pooling had not yet been implemented in the 310 NPA. Moreover, the FCC had not yet even released any of its report and orders in the Numbering Resource Optimization docket.

One year later, *using essentially the same record that it had previously used to adopt an overlay*, the Commission determined that an area code split, rather than an overlay, was the appropriate form of area code relief for the 310 NPA.¹⁷ The Commission set forth an abbreviated implementation schedule that would be initiated upon the Commission's determination that the underlying carrier utilization data was reliable and warranted the implementation of the plan.¹⁸

Thereafter, in February 2002, the Telecommunications Division Staff issued an audit report which confirmed the reliability of the carriers' data in the 310 NPA and recommended the implementation of area code relief per the Decision.¹⁹ Subsequently, ALJ Pulsifer issued a draft decision, which would have ordered the implementation of the split. However, in October 2003, the Commission adopted an alternate decision which concluded that the implementation of the split in the 310 NPA pursuant to the Decision was not warranted at that time.²⁰ Although the issue of implementing the area code split in the 310 NPA was raised again in late 2004, the Commission declined to take any further action at that time.²¹ *In the meantime, consumers and*

¹⁷ See D.00-09-073 at Ordering ¶ 1.

¹⁸ Id. at Ordering ¶¶ 6-8.

¹⁹ See Audit Report on the 310 NPA dated February 16, 2002 at. (the Telecommunications Division concluded that the carriers' utilization data was reliable and that additional telephone numbers were "not sufficient to extend the life of the 310 NPA" and the "backup plan for the 310 NPA should be implemented as directed in Decision 00-09-073.") The Audit Report is available at http://www.cpuc.ca.gov/published/report/5281.htm#P661_49579; see also Draft Decision of ALJ Pulsifer dated April 2003.

²⁰ D.03-10-060.

²¹ On October 7, 2004, the Commission voted not to adopt ALJ's Pulsifer Draft Decision which would have implemented the area code split in the 310 NPA. See http://www.cpuc.ca.gov/PUBLISHED/AGENDA/docs/3140_results.pdf (Item 27). The Joint Telecommunications Carriers have long suggested that an overlay, and more recently a triggered overlay, provided the most viable form of area code relief for the 310 NPA. See Joint Wireless Comments on the Draft Decision of ALJ Pulsifer and Alternate Draft Decision of Commissioner Lynch filed on September 9, 2004.

carriers alike are being unnecessarily forced to face the prospects of imminent number exhaust in the 310 NPA.

B. The FCC Mandates Area Code Relief to Protect Consumers and Promote Competition

When the FCC delegated authority to the Commission to implement area code relief, it was clear that, above all, neither consumer choice nor competition was to be impacted by a lack of numbering resources. In particular, the FCC stated:

Under no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice *for want of numbering resources*. For consumers to benefit from the competition envisioned by the Telecommunications Act of 1996, it is imperative that competitors in the telecommunications marketplace face as few barriers to entry as possible.²²

The general need for timely area code relief, and the importance of assuring access to numbering resources, was later reiterated in the Second Report and Order where the FCC found as follows:

The ready availability, and use, of numbering resources by communications service providers is essential to the public receiving the communications services it wants and needs. Unavailability of numbers, or an inefficient allocation of available numbers, could prevent or discourage consumers from taking new services. Thus, the timely implementation of area code relief is essential if new providers are to enter and new services are to appear in the telecommunications marketplace.²³

²² See *In the Matter of California Public Utilities Commission Petition for Delegation of Additional Authority Pertaining to Area Code Relief and NXX Code Conservation Measures* CC Dkt. No. 96-98, Order, 14 FCC Rcd. 17, 486 (1999) (the “Delegated Authority Order”) (emphasis added).

²³ See *In the Matter of Numbering Resource Optimization*, CC Dkt. No. 99-200, *Second Report and Order and Further Notice of Proposed Rule Making* Numbering Resource Optimization, 16 FCC Rcd. 306 (2000) at ¶ 59 (emphasis added) (the “Second NRO”). See also *First NRO* at ¶ 171 (“Area code relief is ultimately a federal question, although we have delegated states authority to handle these matters. It is our policy that no carriers should be denied numbering resources simply because needed area code relief has not been implemented.”).

Thus, area code relief in the 310 is not only sound public policy, it is also mandated by the FCC.

C. Triggered Overlays Serve The Competing Needs Of All Stakeholders In The 310 NPA

1. A Triggered Overlay Provides the Optimal Approach to Area Code Relief in the 310 NPA

The essence of a triggered overlay, like a regular all-services overlay, is that it superimposes a new area code over the geographic area of an existing area code. Unlike an area code split, which requires approximately half of the consumers in any area code to simultaneously change their current telephone numbers, an overlay requires only consumers of new services to utilize the numbers from the new area code and only when there are no (or very few) remaining numbers in the original NPA. Among other things, a triggered overlay, like a general all-services overlay, has the following advantages over other forms of area code relief:

- No consumers with numbers in the existing area code have to change or “give back” their telephone numbers;
- No consumers have to endure the costs and inconveniences of changing stationary, business cards, and signage or contacting friends and colleagues about their changed number;
- All consumers within an NPA are treated equally, i.e., there is no “wrong side” of the split;
- An overlay also maintains the geographic integrity of the NPA, i.e., it does not alter or shrink the size of the current NPA as would an area code split.
- Wireless consumers with phones that cannot be reprogrammed over the air (“non-OTA capable phones”) do not need to go to the trouble of having their handsets manually reprogrammed;
- Carriers can implement an overlay more quickly than a split;
- There is no “flash cut” with an overlay. Thus, new numbering resources are assigned only *as needed* instead of forcing millions of current consumers on the “wrong side” of the split to undergo a number change because of *future* demands.

- A triggered overlay allows the carriers and the Commission to *continue to use conservation measures* for as long as possible without putting consumers at risk for exhaust.²⁴

2. The Basics of a Triggered Overlay

The triggered overlay has one additional salient characteristic that distinguishes it from the traditional all-services overlay – the triggered overlay is not implemented until the number of remaining codes in the existing area code reaches a particular (and predetermined) level that leaves no option for putting off relief, i.e., the “trigger.” In the meantime, there is no impact on consumers as carriers make all necessary adjustments to the networks, and prepare a consumer education plan, so that when the “trigger” is pulled, new numbers can be made available in a timely fashion.

Because of this triggering mechanism, a triggered overlay provides the opportunity for carriers to prepare for area code relief in advance while delaying any actual changes that would impact consumers. In a perfect world, adoption of a triggered overlay would occur early enough such that carriers would be prepared for an overlay well before the triggering date. Thus, on June 15, 2004 (ICC Docket No. 00-0475), the Illinois Commerce Commission adopted a triggered overlay for the 815 NPA. At that time, however, there were approximately 57 unassigned codes remaining and the trigger for implementing relief was essentially 24 NXX

²⁴ The only objection to an overlay (as far as the Joint Telecommunications Carriers are currently aware) is the potential inconvenience of ten-digit dialing. As experience has shown, customer education would readily alleviate this concern. Moreover, in the course of the past few years, many California consumers, especially those in the Los Angeles, where there are so many area codes covering relatively small geographic areas, have become accustomed to making calls in numerous area codes on a daily basis. Many consumers live in one area code, work in another and make local calls to friends and families in other area codes – all within the same general area – and routinely dial ten digits. See e.g., D. 98-05-021 at pg. 36 (The Commission notes that in a one day sample of calls by SBC, 51% of calls originated in the 310 NPA involved 1+10 digit dialing.) The era of a single large area code for an entire metropolitan area (as “213” used to be for Los Angeles) has now long passed into history.

codes.²⁵ As of the completion of the network preparation just last month, there were still 41 full NXX codes and almost 1600 thousand-number blocks available. Thus, there has been no impact on consumers, yet relief will be available when needed as a result of the advanced planning.

The situation in the 310 NPA is quite different. There are currently only nine (9) remaining full NXX codes (and 356 thousand-number blocks) in the 310 NPA. Moreover, as explained further below, the Joint Telecommunications Carriers propose that the Commission adopt a “trigger” of six (6) remaining NXX codes (60 blocks) followed by an implementation plan of ten (10) months.²⁶ At the current rate of block assignment in the 310 NPA, i.e., an average of some 27-37 blocks per month,²⁷ the six remaining codes, combined with the carriers’ 6-month inventories, may – at least theoretically – provide adequate resources until new numbers are available.²⁸ In contrast, most other area code relief plans, if not all other area code relief

²⁵ When there are 24 codes remaining, the carriers are to meet to discuss the start date of a 10-month implementation plan.

²⁶ An NXX-Code contains ten blocks each containing 1,000 numbers. Under pooling, each of the thousand-number blocks can be assigned individually to one (and only one) rate center. However, once the NXX Code is assigned to a given rate center, each of the thousand-number blocks may only be assigned to a carrier seeking numbers in that rate center. Thus, the remaining six NXX codes contain only sixty (60) thousand-number blocks which can only be used in the particular rate center to which each NXX Code is assigned.

²⁷ In the past six months alone (including the first week of March), 231 blocks have been assigned in the 310 NPA for an average of 37.1 blocks per month (i.e., 231 blocks/6.23 months). If one takes into account the number of blocks donated/returned during that same time period (i.e., 66 blocks), the net monthly average is 26.5 blocks per month (i.e., 231-66 blocks/6.23 months). See <http://www.nationalpooling.com/pas/control/pooltrackingreportstep1?siteTyp=FR>

²⁸ This analysis is illustrative only. In reality, it is overly simplified since it assumes that remaining blocks can be used in any rate center in the NPA. However, thousand-number blocks are assigned to unique rate centers, and as a general matter cannot be used to meet demand in a different rate center. Thus, the situation is actually much more complicated and the likelihood of exhaust occurring is correspondingly increased since the NPA can exhaust even if there seem to be thousand-number blocks remaining for assignment in an NXX. For example, thousand-number blocks may be available in the Inglewood rate center but not in the Malibu rate center. If there are no unassigned NXX codes available to replenish the Malibu rate center, Malibu is exhausted and the fact that there are remaining blocks in the other 310 rate centers is of no consequence to consumers and carriers in that area.

plans, have been implemented long before the number of remaining unassigned codes has reached this critical level.²⁹

3. The Proposed Triggered Overlay

Assuming adequate remaining numbering resources remain at the time the proposed triggered overlay for the 310 NPA is adopted, the timetable for implementation is straightforward.³⁰ In particular:

- Upon the adoption of the triggered overlay as the back-up form of area code relief (the “Order”), the carriers would begin to make the necessary network translations and operational support systems modifications for the overlay (the “Network Preparation”);
- Network Preparation would be completed 120 days from the effective date of the Order;
- Upon the assignment of the seventh remaining code, NANPA shall report that there are six (6) remaining unassigned NXX codes in the 310 NPA and the Assigned Commissioner shall, by letter, authorize and direct NANPA to notify 310 NPA code holders to proceed with implementation of the all services overlay (i.e., the “Triggering Event”);³¹
- Carriers would have 90 days from the Triggering Event to prepare and distribute customer notification materials;
- Permissive Dialing (i.e., the time period in which consumers would be able to use either 7 or 1+10 digit dialing to call other

²⁹ With the exception of three NPAs in New Jersey which exhausted in 2001 before area code relief was implemented, the Joint Telecommunications Carriers are unaware of any NPA in the country where relief was implemented after the remaining inventory of codes had reached anything approaching single digits. As it happens, overlays were ultimately implemented as the form of area code relief for these NJ NPAs.

³⁰ A copy of the proposed implementation timeline for the proposed triggered overlay in the 310 NPA is attached hereto as Exhibit B.

³¹ In the event that the triggering event occurs prior to the effective date of the Order, or after the effective date of the Order but before the Network Preparation is completed, the Network Preparation and Customer Notification periods would overlap. In either event, Permissive Dialing could not, and would not, begin before the Network Preparation and initial Customer Notification was completed.

numbers within the 310 NPA) would begin 120 days after the Triggering Event and would last for 150 days;

- Customers would be sent a second notification from carriers at least 30 days before the beginning of mandatory dialing;
- Mandatory Dialing would begin at the end of the Permissive Dialing period; and
- Numbers from the new area code would be available for assignment to consumers not earlier than 30 days after the beginning of the Mandatory Dialing Period.

Significantly, to the extent number conservation measures extend the life of the 310 NPA beyond current expectations, the triggered overlay does not require the consumers to take any particular action or otherwise change the way they use their phones. However, if numbering resources are depleted to the point where there are only 6 full NXX codes left, the triggered overlay provides the most responsible way of trying to ensure that new numbering resources will be available when necessary.

D. The 310 NPA Needs Area Code Relief

Despite the success of number conservation, the Commission is well aware that it must implement area code relief at some time. Numbers are finite and at a certain point the extremely limited current supply will be completely depleted. The real question is whether it will be implemented in a timely manner. The Joint Telecommunications Carriers submit that any further delay in adopting a responsible area code relief plan, and beginning the necessary network modifications to implement that relief, makes the prospects of timely relief a near impossibility. Perhaps more importantly, the advantages of a triggered overlay – in particular the fact that it has no impact on consumers until relief is undeniably necessary – make the failure to act now inexcusable.

Although the precise date that numbering resources will actually exhaust cannot be calculated precisely, there are several facts which indicate that regardless of when exhaust occurs, the need to act in the 310 NPA is imminent. First, as the FCC, the State Legislature, this Commission, and the carriers know from experience, area code relief takes time to implement and appropriate planning is necessary. For example, the implementation period for the recent 909/951 area code split was sixteen months. Although the implementation period for overlays is shorter, the failure to act now unnecessarily puts consumers and carriers at risk of imminent number exhaust. It would simply be irresponsible to put off the inevitable need for responsible area code relief until a later date at which point relief cannot possibly be implemented before exhaust occurs. In fact, with only 9 remaining full NXX codes at the time that this petition is

filed, the Commission may already be in a situation where implementation cannot be completed prior to the full exhaust of the 310 NPA.³² Accordingly, further delay is unwarranted.

Second, in contrast to the situation in 1998 when an overlay was first adopted, the Commission and the carriers have now exhausted all reasonable number conservation measures.³³ These measures include thousand-number block number pooling, sequential numbering requirements, *stringent criteria for the assignment of additional thousand-number blocks*,³⁴ increased contamination levels (albeit for the express purpose of allowing the Commission time to implement area code relief),³⁵ and, in the context of a pre-pooling environment, strict rationing and lottery systems. Moreover, the carriers have, even according to the Commission Staff, been highly diligent about reviewing their inventories and returning blocks wherever possible. As noted in a previous draft decision by ALJ Pulsifer, the Telecommunications Division staff regularly calls carriers to see if they can review their existing and projected needs and, if at all possible, find a thousand-number block they could donate so that opening one of the remaining full NXX codes can be avoided.³⁶

³² For example, in February 2005, NANPA was forced to assign three of the then 12 remaining NXX codes in the 310 NPA to rate centers that had no further thousand-number blocks remaining. As noted below, there is still one rate center *with no remaining blocks available* and five rate centers with fewer than ten (10) thousand-number blocks remaining in the pool. Thus, some, if not all, of the remaining NXX codes will likely have to be assigned to these rate centers in the very near term.

³³ The Joint Telecommunications Carriers note that the FCC has specifically admonished the Commission (and other state commissions) not to use conservation measures to “the exclusion of, or as a substitute for, unavoidable and timely area code relief.” *Delegated Authority Order* at ¶ 8.

³⁴ The current number utilization guideline require carriers to assign at least 75% of their available numbering resources and have less than a six-month inventory of numbering resources before they can obtain additional blocks.

³⁵ See Numbering Resource Optimization, *Order*, CC Dkt. No. 99-200, 18 FCC Rcd. 16860 (2003) (“*Contamination Order*”) (granting in part and denying in part the Commission’s petition to increase the contamination level throughout the state).

³⁶ See ALJ Pulsifer’s Draft Decision dated November 2, 2004 at p. 15. In addition, despite their previously articulated concerns with the propriety of and the use of numbers from so-called “adjacent rate centers,” wireless carriers have been forced to use those numbers where possible as part of their effort to stave off total exhaust of the area code. Without the use of those numbers, the 310 NPA would have exhausted long ago.

Third, the remaining numbering resources in the 310 NPA are nominal. As noted above, there are only nine (9) full codes left.³⁷ In addition, one of the 16 rate centers in the NPA has *no thousand-number blocks remaining* and another five (5) have fewer than 10 thousand-number blocks available, all but ensuring that further demand in any of these rate center will require the imminent assignment of some (or all) of the remaining full NXX codes.³⁸ Although reasonable estimates of exhaust vary, it is difficult to see how these remaining resources can last much longer. Moreover, the FCC recently granted VoIP providers with the ability to draw directly from NANPA resources.³⁹ Given that VoIP is, by the Commission's own estimates, likely to become a major factor in the telecommunications market here in California,⁴⁰ the demand on the remaining resources is almost certain to increase.

Finally, a triggered overlay eliminates any risk to consumers associated with the potential premature implementation of area code relief. As discussed above, upon the adoption of the order granting this Petition, carriers will begin to make the necessary network translations and operational support systems modifications to implement the overlay when it is "triggered."

There will, however, be no impact on consumers as long as sufficient number resources remain.

³⁷ At the current time, only one or two of the nine remaining codes have been designated as pooling codes and the rest have been designated as non-pooling codes. For purposes of this Petition, the Joint Telecommunications Carriers have assumed the use of all remaining codes for pooling although this will leave non-pooling carriers with no resources left in the NPA.

³⁸ See Neustar Pool Blocking Report at <http://www.nationalpooling.com/pas/control/pooltrackingreportstep1?siteTyp=FR>. According to Neustar, as of March 7, 2005, there are also 356 thousand-number blocks left in the pooling inventory for the 310 NPA distributed among the 16 rate centers. As previously noted, however, see n. 26 7 28, *supra*, a thousand-number block can be used only in the rate center to which the NXX code of which it is a part has been assigned. Thus, the remaining NXX codes may be needed to provide numbers in rate centers where all current blocks have been depleted, even though thousand-number blocks may exist in other rate centers.

³⁹ See *In the Matter of Administration of the North American Numbering Plan*, CC Dkt. No. 99-200, Order, FCC 05-20 (released Feb. 1, 2005) (carrier can now obtain blocks of telephone numbers directly from the North American Numbering Plan Administrator (NANPA) for use in providing (VoIP) services).

⁴⁰ See *The Status of Telecommunications Competition in California*, Third Report of Year 2003 at 52 (continued...)

Nonetheless, when the need arises, as it undoubtedly will in the foreseeable future, the triggered overlay provides the best means to assure that numbering resources will be available to meet consumer demand.

E. The Exhaust Of The 310 NPA Will Harm Consumers, Carriers And The State.

If numbering resources remaining in the 310 NPA exhaust before area code relief can be implemented by this Commission, it will create great hardship for consumers, carriers and the State. For example, consumers (both residential and business) will find it difficult, and eventually impossible, to obtain new telecommunications service from the provider of their choice. Consumers will be deprived of the benefits of competition since only those carriers with existing inventories of numbering resources, if any, will be able to provide service to consumers.⁴¹

The basic problem is simple: *carriers cannot provide service to consumers without numbers*. Thus, when exhaust occurs, new carriers are effectively precluded from entering the market,⁴² new entrants are hampered in their efforts to compete with established carriers that already have numbering resources, and existing carriers cannot introduce (or appropriately market) new or existing services. As a result, carriers, as well as the numerous businesses that support those telecommunications operations (e.g., indirect dealers, equipment manufacturers,

(...continued)
(October 31, 2003).

⁴¹ As discussed above, such a result directly contradicts the FCC's explicit mandate to this Commission on the need to provide timely area code relief. See Section III.B, *supra*.

⁴² As it currently stands, the lack of available numbering resources effectively precludes a new entrant from offering service in the Los Angeles market since they would be unable to acquire adequate resources in the 310 NPA to meet any type of sustained demand from consumers.

etc.), will undoubtedly suffer. Clearly, no party's interests are served by allowing exhaust to exacerbate the economic problems in the Los Angeles area. As recognized by this Commission on several occasions, such a situation must be – and should be – avoided since the failure to act promptly will harm consumers and worsen economic conditions for all.

IV. CONCLUSION

The time has come for the Commission to end the lengthy debate over area code relief in the 310 NPA. By adopting a triggered overlay as the relief plan for the 310 NPA instead of the split favored some five years ago, the Commission has the opportunity to achieve the ultimate “win-win” situation through which: (i) customers are not forced to change numbers and bear the costs and burdens of that activity; (ii) current conservation measures can run their course to the extent they have not already done so; (iii) carriers can obtain access to numbers needed to serve new and existing customers; (iv) community leaders can support a relief plan that does not disproportionately burden their communities; and (v) the Commission can responsibly avoid exhaust while avoiding the inconvenience of an area code split.

Based on their experience across the United States, the Joint Telecommunications Carriers stand ready to work with the Commission and consumers to implement a triggered overlay and

respectfully urge the Commission to grant this petition to modify Decision 00-09-073 by adopting the triggered all-service overlay as the back up relief plan for the 310 NPA.⁴³

Respectfully submitted this 9th day of March in the year 2005 at Oakland, California.

Leon M. Bloomfield
WILSON & BLOOMFIELD LLP
1901 Harrison Street, Suite 1630
Oakland, CA 94612
Telephone: (510) 625-8250
Facsimile: (510) 625-8253
E-Mail: lmb@wblaw.net

James W. McTarnaghan
STEEFEL, LEVITT & WEISS
A Professional Corporation
One Embarcadero Center, 30th Floor
San Francisco, CA 94111
Telephone: (415) 788-0900
Facsimile: (415) 788-2019
E-mail: jmctarnaghan@steefel.com

By: _____
Leon M. Bloomfield/James W. McTarnaghan

On behalf of the Joint Telecommunications
Carriers - Cingular Wireless, Nextel of
California, Inc., SBC California, Sprint,
T-Mobile, Verizon California, Inc., and
Verizon Wireless

⁴³ The specific language changes required by Rule 47 are attached hereto as Exhibit C.

EXHIBIT A

Overlays

NPA	Location	In Service?	In Svc Date	Overlay	Overlay Complex	Parent
720	CO	Yes	01-Jun-98	Yes	303/720	303
786	FL	Yes	01-Mar-98	Yes	305/786	305
321	FL	Yes	01-Nov-99	Yes	407/321	407
754	FL	Yes	01-Aug-01	Yes	954/754	954
770	GA	Yes	01-Aug-95	Yes	404/770/678	404
678	GA	Yes	06-Jan-98	Yes	404/770/678	770
224	IL	Yes	05-Jan-02	Yes	847/224	847
339	MA	Yes	02-May-01	Yes	781/339	781
351	MA	Yes	02-May-01	Yes	978/351	978
774	MA	Yes	02-May-01	Yes	508/774	508
857	MA	Yes	02-May-01	Yes	617/857	617
240	MD	Yes	01-Jun-97	Yes	301/240	301
443	MD	Yes	01-Jun-97	Yes	410/443	410
947	MI	Yes	07-Sep-02	Yes	248/947	248
980	NC	Yes	01-Apr-01	Yes	704/980	704
551	NJ	Yes	29-Dec-01	Yes	201/551	201
848	NJ	Yes	29-Dec-01	Yes	732/848	732
862	NJ	Yes	29-Dec-01	Yes	973/862	973
917	NY	Yes	01-Jan-92	Yes	212/646/917	212
646	NY	Yes	01-Jul-99	Yes	212/646/917	212
347	NY	Yes	01-Oct-99	Yes	718/347	718
234	OH	Yes	30-Oct-00	Yes	330/234	330
567	OH	Yes	01-Jan-02	Yes	419/567	419
971	OR	Yes	01-Oct-00	Yes	503/971	503
724	PA	Yes	01-Feb-98	Yes	412/724/878	412
484	PA	Yes	05-Jun-99	Yes	610/484	610
267	PA	Yes	01-Jul-99	Yes	215/267	215
878	PA	Yes	17-Aug-01	Yes	412/724/878	412
972	TX	Yes	14-Sep-96	Yes	214/469/972	214
832	TX	Yes	16-Jan-99	Yes	713/281/832	713
469	TX	Yes	01-Jul-99	Yes	214/469/972	214
682	TX	Yes	07-Oct-00	Yes	817/682	817
430	TX	Yes	15-Feb-03	Yes	903/430	903
571	VA	Yes	01-Mar-00	Yes	703/571	703

EXHIBIT B

NPA 310 “Triggered” All-Services Overlay Timeline

DATE	ACTIONS
To Be Determined	<ul style="list-style-type: none">• Effective date of the Commission’s decision granting Petition for Modification• Carriers begin necessary network translations and operational support systems modifications necessary for overlay (“Network Preparation”) upon the effective date.
120 days after the effective date of the Commission’s decision granting the Petition for Modification.	<ul style="list-style-type: none">• Network Preparation completed.
Trigger Date (this date is currently unknown) ⁴⁴	<ul style="list-style-type: none">• NANPA notifies CPUC and carriers that only six (6) unassigned NPA- NXXs remain available for assignment in the 310 NPA.
14 days after Trigger Date	<ul style="list-style-type: none">• CPUC issues press release, setting permissive dialing to begin 120 days after Trigger Date and mandatory dialing to begin 150 days thereafter.
Within 90 Days after Trigger Date	<ul style="list-style-type: none">• Carriers prepare and distribute initial consumer notification materials
120 Days after Trigger Date	<ul style="list-style-type: none">• Permissive dialing period begins (and continues for 150 days)
No later than 30 days prior to the start of Mandatory Dialing	<ul style="list-style-type: none">• Carriers provide second written notification to consumers.
270 days after Trigger Date	<ul style="list-style-type: none">• Mandatory dialing period begins.
300 days after Trigger Date	<ul style="list-style-type: none">• Numbers from 424 NPA are available for assignment to consumers.

⁴⁴ Trigger date shall be the date on which there are six (6) unassigned NXX codes remaining in the 310 NPA, or the effective date of Commission Decision adopting the triggered overlay, whichever comes later.

EXHIBIT C

The Joint Telecommunications Carriers propose that the Findings of Fact, Conclusions of Law and the Ordering Paragraphs in the Decision be replaced with the following text:

Findings of Fact

1. In D.98-05-021, the Commission ordered the implementation of an all-services overlay in the 310 area code pursuant to Alternative 4 of the industry-proposed relief plans.
2. By D.99-09-067, the Commission suspended the previously authorized 310/424 area code overlay, and instituted a program of number pooling and related measures to address the need for number resources in the 310 NPA.
3. Under FCC requirements, a back-up area code relief plan must be adopted where the Commission has instituted a number pooling program to defer the need for a new area code, and the Commission must be prepared to implement the back-up plan prior to NXX exhaustion.
4. Number pooling programs have been in place in California since March 2000 for wireline carriers and since November 2002 for wireless carriers.
5. Although number pooling, as well as other number conservation measures initiated by the Commission, have been effective in extending the life of the 310 NPA, it is both necessary and prudent to ensure that area code relief is available when necessary.
6. There are currently nine (9) full NPA-NXX codes that have not yet been assigned to rate centers in the 310 NPA. Two of those codes are currently reserved for pooling; seven of those codes are reserved for non-pooling carriers although the allocation of those codes can be shifted if necessary.
7. Effective area code relief requires adequate advance time to ensure that carriers can complete the necessary network preparation (including but not limited to network translations, operational support system modifications and E-911 reconfigurations), consumers can be given adequate notification of the pending relief and appropriate permissive and mandatory dialing periods are provided.
8. In order to mitigate adverse impacts on customers from the shortened transitional period to prepare for the new area code, careful attention needs to be paid to effective customer outreach and notice concerning the new area code.

9. Triggered overlays now provide the Commission with an additional area code relief option not available in 2000 when an area code split was adopted as a back up plan.

10. A triggered overlay delays area code relief until such time as a certain number of unassigned NPA-NXX codes remain in the area code. Once this triggering event occurs, implementation of the overlay commences immediately.

11. Before the permissive dialing period can begin, network preparation and initial customer notification must be completed.

12. A 120-day network preparation period, to begin upon the effective date of this order, will provide the carriers with adequate time to make the necessary modifications to the network to begin permissive dialing when necessary.

13. A 90-day initial customer notification period, to begin upon the triggering event, which may run concurrently with the network preparation period, will provide the carriers with adequate time to work with the Commission to prepare and provide customers with the initial notification of the dates for the permissive and mandatory dialing periods as well as other necessary information regarding the overlay.

14. A 150-day permissive dialing period will provide the necessary time for customers to become acquainted with the need to dial 1+10 digits while expediting the waiting period before new NXX codes can become available to carriers and their customers.

15. Mandatory dialing shall begin at the end of the permissive dialing period. NANPA may begin to assign codes to carriers from the new NPA at the beginning of the mandatory dialing period although carriers may not begin to assign those codes to consumers for at least 30 days after the beginning of the mandatory dialing period in order to provide the necessary time for customers to become acquainted with the need to dial 1+10 digits within the 310 and 424 NPA overlay.

16. Overlays have been used to provide area code relief to more than 30 other NPAs in the United States and have provided an effective means of area code relief while minimizing the impact of area code relief on consumers.

Conclusions of Law

1. A triggered overlay of the 310 NPA should be adopted as the back-up plan for the 310 area code.

2. In conformance with FCC requirements, the adopted backup relief plan must allow sufficient time for implementation to be completed before all NXX codes in the 310 NPA have been exhausted.

3. The trigger for the mechanism to initiate implementation of the 310 NPA back-up plan should be when there are six (6) remaining full NXX codes available for assignment remaining in the 310 NPA, or the effective date of this order, whichever is later.

4. The implementation of the back-up plan shall be as provided below in the Ordering Paragraphs.

5. As of the effective date of this order, carriers should immediately begin any necessary network preparation in order to be prepared for the beginning of permissive dialing when it is ordered.

O R D E R

IT IS ORDERED that:

1. A triggered overlay in which area code relief will commence when there are six remaining NXX codes available for assignment is adopted as a back-up relief plan pursuant to Federal Communications Commission requirements.

2. Carriers shall complete any network preparation (including but not limited to network translations, operational support system modifications and E-911 reconfigurations) necessary to implement the overlay within 120 days of the effective date of this order.

3. At the assignment of the seventh remaining code, or upon the effective date of this order, whichever is later, the Assigned Commissioner shall, by letter, authorize and direct the North American Numbering Plan Administration (NANPA) to notify 310 NPA code holders to proceed with implementation of the all services overlay (the “Triggering Event”).

4. Upon the Triggering Event, the following schedule of events shall apply:

- a. No later than 14 days after the Triggering Event, the CPUC shall issue a press release, setting permissive dialing to begin 90 days after Trigger Date and mandatory dialing to begin 150 days thereafter.
- b. No later than 90 days after the Triggering Event, carriers shall provide their customers with initial notice of the adopted plan to implement an all services overlay over the 310 area code and the dates for permissive and mandatory dialing;

- c. 120 days after the Triggering Event, the permissive dialing period shall begin, continuing for a period of 150 days;
- d. No later than 30 days before the end of the permissive dialing period, a subsequent customer notice shall be provided to customers in the 310 NPA notifying them of the adopted plan to implement an all services overlay and the dates for permissive and mandatory dialing.
- e. At the end of the permissive dialing period, a mandatory dialing period shall begin during which time consumers that dial 7-digits to reach either a 310 or 424 telephone number will receive a message informing them that they need to dial the area code to reach that number.
- f. No sooner than 30 days after the beginning of the mandatory dialing period, carriers may begin to assign numbers from the 424 to consumers in a manner that is otherwise consistent with the FCC's numbering guidelines.

5. The Telecommunications Division, Public Advisor and Consumer Services Division shall monitor carriers' customer notification process concerning the overlay and advise the assigned Commissioner in the event that further customer outreach efforts need to be ordered.